

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA**

**Application for Certification for Mirant
Corporation's POTRERO POWER PLANT
UNIT 7 PROJECT**

Docket No. 00-AFC-4

**CANCELLED ! NOTICE OF FOURTH SET OF EVIDENTIARY HEARINGS *and*
HEARING ORDER**

I. BACKGROUND

At the conclusion of the December 9, 2002 evidentiary hearing, the Committee directed the parties to submit information regarding potential scheduling conflicts by December 31, 2002.

We have scheduled the hearings noticed below after reviewing this and other pertinent information.

II. NOTICE OF EVIDENTIARY HEARINGS

We will conduct formal evidentiary hearings as follows:

**San Francisco Civic Center Complex
Hiram Johnson Building
455 Golden Gate Avenue
San Francisco, California 94102
*[Wheelchair Accessible]***

Each Session beginning at 10 a.m.

- In Hearing Room 9 -	- In Conference Rooms 5 and 6 -
Monday, March 17, 2003 Tuesday, March 18, 2003 Friday, March 21, 2003 Monday, March 24, 2003	Tuesday, March 25, 2003 And continuing to Wednesday, March 26, 2003, if necessary.

TOPICS MAY BE CONTINUED FROM ONE DAY TO THE NEXT AS NECESSARY

At the evidentiary hearings, the parties (Applicant, Staff, Intervenors) will present evidence consisting of sworn testimony and exhibits on each topic area. Presentations will follow the agenda reflected in **ATTACHMENT A**.

In addition, we make the following determinations:

- The topic of "Socioeconomics" as noticed below includes only those considerations relevant to matters such as the project's potential effects upon local schools, housing, and services, as well as taxes and jobs. It specifically does not include demographic data or "environmental justice" concerns. These items will be heard at a later date.
- The topics of "Air Quality" and "Public Health" overlap to a substantial degree. We therefore have joined these topics, and would prefer the parties, to the extent possible, present their respective testimony on both topics by using a single panel of witnesses.
- While we acknowledge CBE's request for evening hearings, such events provide a lesser amount of hearing time, leading to an undesirable protraction in the number of hearing days required.

At the conclusion of the evidentiary presentations, the Committee may solicit additional information from the parties concerning the scheduling of future events in this proceeding, the status of various items such as the federal Biological Opinion and Applicant's potential project design changes, and other relevant matters.

A. Formal Evidentiary Hearing Procedures

The purpose of these formal evidentiary hearings is to establish the factual record necessary to reach a decision in this case. This is done through the taking of written and oral testimony as well as exhibits from the parties. Any party proposing to sponsor witnesses must serve upon all other parties a written version of the witnesses' testimony and a statement of the witnesses' qualifications to testify upon the topic area(s) according to the schedule below. Witnesses will testify under oath or affirmation and be subject to cross-examination by other parties who have intervened in the case. Parties intending to offer documentary exhibits as evidence (other than the Staff Assessment, the Application for Certification document, portions of either, or documents which have been previously docketed and served) shall also include a copy of such materials with their written testimony. If appropriate, parties shall specify the withdrawal/substitution of

previously identified witnesses, as well as the desire to recall prior witnesses sponsored by other parties, in their respective filings as scheduled below.

At the evidentiary hearings, a party sponsoring a witness shall briefly establish the witness' qualifications and have the witness orally summarize the prepared testimony before requesting that the testimony be moved into evidence. Relevant exhibits may be offered into evidence at that time as well. At the conclusion of a witness' direct testimony, the Committee will provide the other parties an opportunity for cross-examination, followed by redirect and recross examination as appropriate. In order to provide a fair and efficient process, **the Committee deems it necessary to establish maximum time limits for direct and cross-examination in each topic area. These limits are reflected for each topic area and, as appropriate, for each party in ATTACHMENT A.**

Parties are encouraged to consolidate presentations by witnesses and/or cross-examination to the greatest extent possible in order to minimize duplication and conserve hearing time. Parties proposing multiple witnesses on a topic area should have the witnesses testify as a panel, if possible.

FAILURE TO PRESENT WITNESSES AS SCHEDULED, OR TO CROSS-EXAMINE ON THE TOPICS AS SCHEDULED, CAN CONSTITUTE A WAIVER OF THESE RIGHTS.

B. Public Participation

Members of the public and interested governmental agencies are invited to attend these hearings, and may offer unsworn public comment upon the matters discussed. These public comments will be entered into the record of the proceeding and the Committee may rely on them to supplement or explain the evidence of record. Public comments by themselves, however, are not sufficient to support a finding of fact or a decision on an issue.

The Commission's Public Adviser, Roberta Mendonca, is available to provide information or to assist those interested in participating at these hearings. She may be reached at (916) 654-4489 or, toll free, at 1-800-822-6228; or e-mail: **[pao@energy.state.ca.us]**.

C. Further Information

If you have a disability and need assistance to participate at these events, please contact Lou Quiroz at (916) 654-5146 at least five days prior to the event(s) you wish to attend. News media inquiries should be directed to Claudia Chandler at (916) 654-4989, or e-mail: **[energia@energy.state.ca.gov]**.

James Reede, the Commission's Project Manager, will respond to technical questions concerning the Potrero Power Plant Unit 7 Project at (916) 653-1245, or e-mail: **[jreede@energy.state.ca.us]**.

Information concerning the status of the project, as well as notices, hearing transcripts, and other relevant documents, is also available on the Energy Commission's Internet home page at: **[www.energy.ca.gov/sitingcases/potrero]**.

Questions of a legal or procedural nature should be directed to the Hearing Officer, Stanley W. Valkosky, at (916) 654-3893.

III. HEARING ORDER

The following filing schedule shall apply for the fourth set of evidentiary hearings scheduled above.

Submittals shall be served upon all parties to this proceeding and the Commission's Docket Unit, MS-4, 1516 Ninth Street, Sacramento, CA 95814. Each party is responsible for ensuring that its respective submissions are received by the Docket Unit no later than 3:00 p.m. on the dates indicated. Identify all documents with "Docket No. 00-AFC-4."

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<i>DATE</i>	<i>EVENT</i>
February 18, 2003.	Applicant serves prepared testimony and exhibits for Topic Areas scheduled for hearing in March 2003; filings to include witness changes, additions, or deletions.
March 4, 2003	Other parties serve prepared testimony and exhibits for Topic Areas scheduled for hearing in March 2003; filings to include witness changes, additions, or deletions.

Staff may also conduct such workshops as are desirable or necessary during this period.

Dated in Sacramento, California on February 5, 2003.

Original Signed by:

ROBERT PERNELL
Commissioner and Presiding Member
Potrero AFC Committee

Original Signed by:

WILLIAM J. KEESE
Commissioner and Member
Potrero AFC Committee

- AGENDA -

TOPIC AND WITNESS SCHEDULE

Monday, March 17, 2003 EVIDENTIARY HEARING

TOPIC	WITNESSES (DIRECT TESTIMONY)	CROSS-EXAMINATION
<p>Socioeconomic Resources <i>(excluding demographic data and Environmental Justice concerns).</i></p>	<ul style="list-style-type: none"> • Applicant: McKinstry (30 min.) • Staff: Fajans Stennick (10 min.) • CCSF: Coyle (20 min.) • PBNA/DNA: Borg Moss DeCastro (1 hour) 	<ul style="list-style-type: none"> • Applicant: 1 hour • Staff: 45 min. • CCSF: 1 hour • OCE/SAEJ: 30 min. • CBE: 1 hour • PBNA/DNA: 1 hour • NPOC: 30 min.
<p>PUBLIC COMMENT ON TOPIC ABOVE</p>		

- THE MAXIMUM TOTAL TIME THE COMMITTEE VIEWS AS REASONABLE FOR DIRECT TESTIMONY AND CROSS-EXAMINATION IS REFLECTED IN PARENTHESES ON THE TABLE ABOVE.
- TOPICS MAY BE CONTINUED FROM ONE DAY TO THE NEXT AS NECESSARY.

- AGENDA -

TOPIC AND WITNESS SCHEDULE

Tuesday, March 18, 2003 EVIDENTIARY HEARING

TOPIC	WITNESSES (DIRECT TESTIMONY)	CROSS-EXAMINATION
Socioeconomic Resources <i>(Continuation)</i>	<ul style="list-style-type: none"> • NPOC: Muller (15 min.) 	<ul style="list-style-type: none"> • Applicant: 10 min. • Staff: 10 min. • CCSF: 10 min • OCE/SAEJ: 10 min. • CBE: 10 min. • PBNA/DNA: 10 min.
PUBLIC COMMENT ON TOPIC ABOVE		
Air Quality and Public Health <i>May be continued to March 21, 2003, if necessary.</i>	<ul style="list-style-type: none"> • Applicant: Strehlow Krieger (2 hours) 	<ul style="list-style-type: none"> • Staff: 1hour • CCSF: 1hour • OCE/SAEJ: 1hour • CBE: 1hour • NPOC: 15 min. • PBNA/DNA: 15 min.
PUBLIC COMMENT ON TOPIC ABOVE		

- THE MAXIMUM TOTAL TIME THE COMMITTEE VIEWS AS REASONABLE FOR DIRECT TESTIMONY AND CROSS-EXAMINATION IS REFLECTED IN PARENTHESES ON THE TABLE ABOVE.
- TOPICS MAY BE CONTINUED FROM ONE DAY TO THE NEXT AS NECESSARY.

- AGENDA -

TOPIC AND WITNESS SCHEDULE

Friday, March 21, 2003 EVIDENTIARY HEARING

TOPIC	WITNESSES (DIRECT TESTIMONY)	CROSS-EXAMINATION
Air Quality and Public Health	<ul style="list-style-type: none"> Continuation of cross-examination of Applicant's witnesses. <p align="center"><i>(If necessary)</i></p>	
	<ul style="list-style-type: none"> CBE/OCE/SAEJ: Fishman May Kyle (45 min.) OCE/SAEJ: Kyle Hilton Karras (45 min.) CBE: Sims (15 min.) 	<ul style="list-style-type: none"> Applicant: 3 hours Staff: 2 hours CCSF: 1 hour NPOC: 30 min. PBNA/DNA: 30 min.
PUBLIC COMMENT ON TOPIC ABOVE		

- THE MAXIMUM TOTAL TIME THE COMMITTEE VIEWS AS REASONABLE FOR DIRECT TESTIMONY AND CROSS-EXAMINATION IS REFLECTED IN PARENTHESES ON THE TABLE ABOVE.
- TOPICS MAY BE CONTINUED FROM ONE DAY TO THE NEXT AS NECESSARY.

AGENDA

TOPIC AND WITNESS SCHEDULE

Monday, March 24, 2003 EVIDENTIARY HEARING

TOPIC	WITNESSES (DIRECT TESTIMONY)	CROSS-EXAMINATION
<p style="text-align: center;">Air Quality and Public Health</p> <p><i>May be continued to March 25, 2003, if necessary.</i></p>	<ul style="list-style-type: none"> • STAFF: Ngo Ringer Odoemelam Greenberg (1 hour) • BAAQMD: Unidentified (1 hour) 	<ul style="list-style-type: none"> • Applicant: (1.5 hours) • CCSF: (2 hours) • OCE/SAEJ: (2 hours) • CBE: (2 hours) • PBNA/DNA: (30 min.) • NPOC: (30 min.)
PUBLIC COMMENT ON TOPIC ABOVE		

- THE MAXIMUM TOTAL TIME THE COMMITTEE VIEWS AS REASONABLE FOR DIRECT TESTIMONY AND CROSS-EXAMINATION IS REFLECTED IN PARENTHESES ON THE TABLE ABOVE.
- TOPICS MAY BE CONTINUED FROM ONE DAY TO THE NEXT AS NECESSARY.

- AGENDA -

TOPIC AND WITNESS SCHEDULE

Tuesday, March 25, 2003 EVIDENTIARY HEARING

TOPIC	WITNESSES (DIRECT TESTIMONY)	CROSS-EXAMINATION
<ul style="list-style-type: none"> CONTINUATION OF CROSS EXAMINATION FROM March 24, 2003 as necessary 		
<p align="center">Air Quality and Public Health</p> <p><i>May be continued to March 26, 2003, if necessary.</i></p>	<ul style="list-style-type: none"> CCSF: Radis Fox Bhatia Blumfeld (2 hours) 	<ul style="list-style-type: none"> Applicant: (3 hours) Staff: (2 hours) OCE/SAEJ: (1 hour) CBE: (1 hour) NPOC: (30 min) PBNA/DNA: (30 min.)
PUBLIC COMMENT ON TOPIC ABOVE		

- THE MAXIMUM TOTAL TIME THE COMMITTEE VIEWS AS REASONABLE FOR DIRECT TESTIMONY AND CROSS-EXAMINATION IS REFLECTED IN PARENTHESES ON THE TABLE ABOVE.
- TOPICS MAY BE CONTINUED FROM ONE DAY TO THE NEXT AS NECESSARY.

- AGENDA -

TOPIC AND WITNESS SCHEDULE

Wednesday, March 26, 2003 EVIDENTIARY HEARING

<i>TOPIC</i>	<i>WITNESSES (DIRECT TESTIMONY)</i>	<i>CROSS-EXAMINATION</i>
<ul style="list-style-type: none">• CONTINUATION OF CROSS EXAMINATION FROM March 25, 2003 as necessary; if <i>NOT</i> necessary, no hearing will be held.		
<i>PUBLIC COMMENT ON TOPIC ABOVE</i>		